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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/979,576 | 02/15/2002 | Martin John Hofmann | 54156 | 3447 |

116 7590 02/21/2003

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EXAMINER

TIERKORN, ERNEST G

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1723

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,576

Applicant(s)

Hotman

Examiner

THERIAULT

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 19, 2002
- 2a) This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-9 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) _____ accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some* c) None of:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO 892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO 948)
- 3) ☒ Information Disclosure Statement(s) (PTO 1449) Paper No(s) S
- 4) Interview Summary (PTO-413) Paper No(s) _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other _____

Art Unit: 1723

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "other formable material" is considered to render the claims indefinite. Replacing the term with "thermoplastic material" would make the claims definite.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

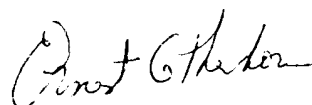
Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vassarotti (European Patent No. 476,977) in view of Abstract of Japan Patent No. 3197863. At best, the claims differ from Vassarotti (European Patent No. 476,977) in the clarity of disclosing the inlet and outlet. Vassarotti (European Patent No. 476,977) (column 3, lines 26-35) does not pictorially represent the inlet and outlet. Abstract of Japan Patent No. 3197863 pictorially represents the inlet and outlet in a similar device for the obvious purpose of allowing liquid to be chromatographed access to the bed and an outlet for the liquid that has been chromatographed to exit the bed. It would have been obvious to have an inlet and outlet as pictorially represented by Abstract of Japan Patent No. 3197863 in Vassarotti (European Patent No. 476,977) because Abstract of Japan Patent No. 3197863 pictorially represents the inlet and outlet in a similar device

23

obvious purpose of allowing liquid to be chromatographed access to the bed and an outlet the liquid that has been chromatographed to exit the bed.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vassarotti (European Patent No. 476,977) in view of Abstract of Japan Patent No. 3197863 as applied to claims 1-9 above, and further in view of Andreotti (U.S. Patent No. 3,826,373). At best, the claim differs from Vassarotti (European Patent No. 476,977) in view of Abstract of Japan Patent No. 3197863 in reciting use of a hollow plunger. Andreotti (U.S. Patent No. 3,826,373) pictorially shows that use of a hollow plunger is an obvious design expedient. It would have been obvious to use a hollow plunger in Vassarotti (European Patent No. 476,977) in view of Abstract of Japan Patent No. 3197863 because Andreotti (U.S. Patent No. 3,826,373) pictorially shows that use of a hollow plunger is an obvious design expedient.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (703) 308-0362.



Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT/12
February 14, 2003